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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JARRETT REEVES, individually and on behalf of all others similarly situated.

Case No. 3:21-CV-05883-VC

JOINT REQUEST FOR DISMISSAL

Plaintiff,

V.

NIANTIC, INC.

Defendant.

1 Plaintiff Jarrett Reeves and Defendant Niantic, Inc. (the “Parties”), by and through their
 2 respective attorneys, hereby make this joint submission, pursuant to Paragraph 56 of the Court’s
 3 Standing Order for Civil Cases, to inform the Court that they have reached a pre-certification
 4 individual settlement of this action and to request that the Court enter an order dismissing this
 5 Action with prejudice.

6 Plaintiff has not yet moved for class certification, and no class has been certified. Defendant
 7 vigorously disputes Plaintiff’s claims. In any event, no member of any putative class will be bound
 8 by the dismissal. Where, as here, the parties do not seek dismissal of the class members’ claims
 9 with prejudice, “they are not impacting the rights of potential class members.” *Houston v. Cintas*
 10 *Corp.*, 2009 U.S. Dist. LEXIS 33704 (N.D. Cal. Apr. 3, 2009).

11 Moreover, further notice of the dismissal would not be warranted under *Diaz v. Trust*
 12 *Territory of the Pacific Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989). First, the Parties are not
 13 aware of any putative class members who are relying on the pendency of this case, which has
 14 received no mainstream publicity and only a rare mention in the legal press. Second, the pendency
 15 of this putative class action tolled the applicable statute of limitations for individual members of the
 16 putative class. *See Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 553-54 (1988). To the extent
 17 that any individual member of some putative class has a viable claim, which Defendant disputes, the
 18 Parties have no reason to believe that they will lose such a claim as a result of this dismissal. Third,
 19 Plaintiff’s counsel represents that there has been no concession of putative class interests by the
 20 Plaintiff or his counsel, much less in order to further their own interests.

21 For all of these reasons, and because notification to unidentified putative class members, if
 22 possible, would be inordinately burdensome and costly, the Parties respectfully submit that further
 23 notice of the dismissal is unwarranted. The Parties hereby jointly stipulate and request that the
 24 Court dismiss the entire Action as to all parties claims with prejudice.

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1 Dated: January 24, 2023

BURSOR & FISHER, P.A.

2 By: /s/ L. Timothy Fisher
3 L. Timothy Fisher

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15 *Attorneys for Plaintiff*

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17 Dated: January 24, 2023

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28 *Attorneys for Defendant*

1 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1**

2 I, L. Timothy Fisher, attest that concurrence in the filing of this document has been obtained
3 from each of the other signatories. Executed on January 24, 2023 in Walnut Creek, California.

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5 */s/ L. Timothy Fisher*

6 L. Timothy Fisher

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